IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1431 of 1982

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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UNITED INDIA INSURANCE CO.LTD. - Appellant(s)
Versus
HARIJAN MADHABHAI PUNJABHAI & 2 - Defendant(s)

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Appearance :
MR PV NANAVATI for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 24/07/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal (Main), Mehsana passed in M.A.C.P. No.367 of 1980 dated 31st December, 1981.

2.0 The brief facts of the case are that on 13.03.1980, when present opponent No.1 was proceeding with his bullocks from Radhanpur to

his home, he met with an accident caused by an auto-rickshaw driven by either present opponent No.2 or No.3. Therefore, opponent No.1 preferred a petition claiming an amount of Rs.60,000/- by way of compensation.

2.1 In the said claim petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Learned Advocate for the appellant has submitted that the Tribunal has committed an error in not considering the evidence produced at Exh.57 that the insured-opponent No.3 had no permit to ply the vehicle on road. He has further submitted that the Tribunal ought not to have made the appellant liable to satisfy the claim.

4.0 Heard. It was case of the appellant before the Tribunal that, since the vehicle in question was plied out of territorial limit, it is not liable to satisfy the award. However, the

Tribunal has not believed the said case of the appellant. On perusal of the policy it appears that a condition is imposed in the policy holder to ply the vehicle in question within the limits of Kaira district. As per the provisions of Section 66 of the said Act, the permit granted for a particular region is not valid in any other region unless the permit is counter-signed by the Regional Transport Authority of that particular region. It is, therefore, clear that the permit for one region can be valid and the vehicle can be used in any other region, only if that permit is countersigned by the R.T.O. Authority of that particular area.

4.1 In the case on hand, in order to avoid the liability to pay compensation, the onus is on the appellant-Insurance Company to prove that the permit was not countersigned by the R.T.O Authority of that particular. In the impugned award, the Tribunal has recorded a finding that the appellant-Insurance Company has failed to prove that the permit was not counter-signed by

the Regional Transport Authority of the area under which the accident in question took place. Moreover, the appellant has not led any evidence in that regard. In that view of matter, I am of the opinion that the conclusion arrived at by the Tribunal is just and proper.

4.2 In above view of the matter, I am in complete agreement with the reasoning given and findings arrived at by the Tribunal, and therefore, find no reason to interfere in this appeal. Hence, the appeal deserves to be dismissed.

5.0 In the result, the appeal stands dismissed. No order as to costs.

(K.S. Jhaveri,J.)

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